

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 10TH DECEMBER 2007 / 19TH AGRAHAYANA 1929

WP(C).No. 36378 of 2007(E)

AGAINST THE ORDER IN IA. 1591 /2007 IN
OS.83/2001 of M.C.,PARAPPANANGADI

.....

PETITIONER:

SHAMZUDHEEN
S/O. MOIDEENKUTTY, AGED 70 YEARS
MANGATTU MAMPURATH,ENNAKALAM HOUSE,
ARIYALLOOR POST, MALAPPURAM DISTRICT
PIN 676 312.

BY ADV. SRI.K.P.SUDHEER

RESPONDENTS:

1. KUNHIMOHAMMED
S/O. KUNHALAVI, PALLIYALIL,
ARIYALLOOR POST, CHETTIPPADI VIA
MALAPPURAM DISTRICT, PIN 676 312
2. ABDUL KHADER HAJI
S/O. THAYAM HAJI,
PANNIKANDAN, ANNARA AMSOM, TIRUR POST
MALAPPURAM DISTRICT.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 10/12/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

M.N.KRISHNAN, J.

W.P.(C). NO. 36378 OF 2007

Dated this the 10th day of December, 2007

J U D G M E N T

This writ petition is filed seeking to set aside the order passed in IA 1591/07 in OS 83/01 whereby the court below allowed the application for amendment. Learned counsel for the writ petitioner submits that at each stage the defendants are putting some obstacles in the way of smooth disposal of the matter and even this court has directed not to grant further time by its order in earlier revision petition. It is true that in CRP No. 167/06, I had given such directions while setting aside the ex parte decree. Now the proposed amendment is only, I feel, an elaboration of the details given in the original written statement. In Para 4 and 5 of the written statement there are contentions which will show that the documents created is a fraudulent one and nothing has been acted upon on the basis of the same. There are some averments regarding the manner in which papers were happened to be signed before the previous lawyer. Now by the proposed amendment the defendants only want to elaborate it and to plead how it has been done. It is not a totally

new or inconsistent because it is only an expansion or elaboration of what is stated in the original written statement. So it will not change the character of the suit and there will not be any serious prejudice caused by allowing the application. The Apex court in its latest decision had held that amendment has to be allowed liberally, especially when it does not cause any serious prejudice to the other side. I am of the view that no serious prejudice will be caused for the reason that these averments had already therein in an abridged form and it is only an elaboration that is done now.

Therefore, I do not propose to interfere with the discretionary jurisdiction exercised by the learned Munsiff and the writ petition is accordingly dismissed. But I make it clear that plaintiff shall be permitted to file replication in the light of these developments. The court is directed to dispose of the matter within a period of three months from today.

M.N.KRISHNAN, JUDGE

vps

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